

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WHITPAIN TOWNSHIP,

Plaintiff,

v.

SCOTT TESTA,

Defendant,

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SCOTT TESTA,

Third-party Plaintiff,

v.

POLICE CHIEF KENNETH LAWSON and  
DETECTIVE SERGEANT THOMAS WITTIG,

Third-party Defendants.

**CIVIL ACTION NO.:**

**NOTICE OF REMOVAL**

Defendant/third-party plaintiff Scott Testa (“Defendant”), by and through his undersigned counsel, hereby files this notice of removal pursuant to Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446. This court has original jurisdiction over this action pursuant to § 1331 because Defendant’s third-party complaint arises under the Constitution. In support of this notice, Defendant states as follows:

**I. BACKGROUND AND PROCEDURAL HISTORY**

1. Plaintiff, Whitpain Township (“Plaintiff”) commenced this civil action on December 6, 2024 by filing its complaint in the Court of Common Pleas of Montgomery County, Case No. 2024-27992-0. The complaint names Defendant as the sole defendant.

2. Defendant was served with the complaint on January 8, 2025. Attached hereto as Exhibit A is a copy of all process, orders and pleadings filed and/or served in the state court action, including the complaint.

3. This notice is timely filed within 30 days of service of process of the complaint on Defendant in accordance with 28 U.S.C. § 1446(b). *See*, Ex. A, service of process.

**A. PLAINTIFF’S CLAIMS**

4. Plaintiff makes claims for injunctive relief in connection with ownership of two properties. *See*, Ex. A, complaint.

**B. DEFENDANT’S CLAIMS**

5. Defendant alleges in its third-party complaint, styled a “joinder complaint” pursuant to the Pennsylvania Rules of Civil Procedure, that third-party defendants obstructed an investigation of a burglary of one of Defendant’s properties due to racial animus and in retaliation filed its complaint, giving rise to claims for First Amendment retaliation and violation of the Equal Protection Clause of the Fourteenth Amendment.

**II. VENUE**

6. Venue is proper in the United States District Court for the Eastern District of Pennsylvania because it is the district embracing the place where the State Court Action is pending. 28 U.S.C. § 1441(a); *see also Polizzi v. Cowles Magazines, Inc.*, 345 U.S. 663, 666 (1953).

**III. BASIS FOR REMOVAL**

7. 28 U.S.C. §§ 1441(c)(1)(A) permits removal of state court actions to federal district courts where the claims arise under the Constitution. The third-party complaint raises claims which arise under the Constitution, specifically under the First and Fourteenth Amendments.

**IV. CONCLUSION**

8. As required by 28 U.S.C. § 1446(a), a copy of each of the following are attached to or will be filed with this notice of removal:

- a. The docket sheet in the state court action; and
- b. Each pleading, writ, or order filed, issued, or entered in the state court action.<sup>1</sup>

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<sup>1</sup> The joinder complaint was filed at 9:45 AM on January 30, 2025 and marked by the Prothonotary of Montgomery County as “received” but no copy has yet been marked “filed.” As such, due to the urgency of this notice of removal

9. Plaintiff will promptly file a copy of this notice of removal with the clerk of the state court where the state court action is pending.

WHEREFORE, pursuant to 28 U.S.C. §§ 1441, 1446, and 1331, defendant, Scott Testa, requests that this action be removed from the Court of Common Pleas of Montgomery County to the United States District Court for the Eastern District of Pennsylvania, and that this court enter such further orders as may be necessary and appropriate.

Respectfully submitted,

O'HANLON SCHWARTZ, P.C.



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Stephen T. O'Hanlon, Esquire

DATED: January 30, 2025

**O'HANLON SCHWARTZ, P.C.**

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*Attorneys for Scott Testa*

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given that a hearing on Plaintiff's application for injunctive relief is scheduled to be heard at 1:30 PM today, attached to this application is a copy of the pleading which was received but not yet filed.